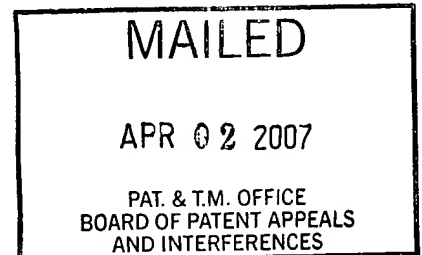


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GERALD FRANCIS MCBREARTY, SHAWN PATRICK MULLEN,
JOHNNY MENG-HAN SHIEH, and MICHAEL WILLIAM WORTMAN

Application No. 09/801,612



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 18, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On July 18, 2006, the examiner mailed an examiner's answer. A review of the file reveals that the "Evidence Relied Upon" section paragraph (8) is missing.

Before further review, the examiner must mail a PTOL-90 that will include in the Evidence Relied Upon section, the list of references mentioned in the statement of rejections. See the

Application No. 09/801,612

Manual of Patent Examining Procedure, (MPEP) § 1207.02.
Appropriate correction is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner to:

1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: Patrick J. Nolan

PATRICK J. NOLAN
Deputy Chief Appeal Administrator
(571) 272-9797

cc: HERMAN RODRIGUEZ
IPLAW DEPT. - IMAD 4054
IBM CORPORATION
11400 BURNET ROAD
AUSTIN, TEXAS 75758

PJN/lbg